

DRAFT

Area-Wide Soil Contamination Project

Task 5 – Institutional Frameworks

Workplan

Background

Soil in large areas of Washington State is contaminated with low-to-moderate levels of contaminants, including arsenic and lead, caused by a range of historical activities. As Washington's population has grown, many of these areas have been developed into residential neighborhoods, schools, and parks. These development activities have created pressures for cleanup and raised a variety of health, environmental, and marketplace concerns. The Departments of Ecology, Health, and Agriculture and the Office of Community Development have chartered a task force to address issues of area-wide soil contamination in Washington State. The Area-Wide Soil Contamination Task Force will work with two work groups and a consultant team to develop recommendations for the chartering agencies by June 2003 on a statewide strategy to respond to area-wide soil contamination problems.

The project will study the nature and geographic extent of area-wide soil contamination in Washington, identify feasible measures to protect human health and the environment, and recommend institutional and/or regulatory changes to improve how area-wide soil contamination problems are addressed. During the course of the project, the Agencies and the consultant team will also develop and implement a public involvement plan to educate the public and provide opportunities for public participation in the project.

The Objectives of Task Five

Under the Institutional Frameworks Task (task 5), consultants and agency staff will work with the Task Force to identify current institutional frameworks (e.g., laws, regulations, land use planning processes, etc.) and changes that will improve efforts to identify and prevent threats to public health posed by widespread low-to-moderate level soil contamination.

The primary institutional frameworks task objectives include the following:

- Identify a range of institutional alternatives/processes that are currently being used or that could be used to ensure that area-wide soil contamination problems are identified and remediated in ways that protect human health and the environment;
- Evaluate the feasibility of implementing the various institutional alternatives (including current institutional barriers such as funding, legal authority, processes, coordination, etc.); and
- Identify changes that could be implemented to help overcome current institutional barriers.

Assumptions

Consultant and agency staff will operate from the following assumptions:

- Cleanup Standards: The extent of the area-wide soil contamination problem in Washington is defined by the MTCA Cleanup Standards. Ecology has recently completed a five-year process to review and update those standards. Consequently, the Work Group is not being asked to review or provide recommendations on (1) cleanup standards for individual hazardous substances, (2) the risk policies underlying those standards, or (3) the technical methods used to establish the standards for arsenic and lead.
- Ground Water Protection: The project will focus on problems and solutions associated with low-to-moderate levels of widespread soil contamination. The project has been designed based on the assumption that ground water contamination problems are unlikely to be associated with the low-to-moderate concentrations of arsenic and lead.

Roles and Responsibilities

Lori Ahouse–Task Manager

Manage and direct the activities under the institutional frameworks task area, including preparations of the various analyses and reports. Prepare presentations for the Task Force meetings and coordinate with Task Force facilitators and agency staff. Coordinate with Task Managers for Work Groups I and II.

Elizabeth McManus/Julie Wilson–Work Groups and Task Force Coordinators

Review draft institutional frameworks deliverables and help facilitate coordination between this task area, Work Groups I and II, and the Task Force.

Contractor Team

In addition to their technical expertise and understanding of cleanup programs, the Landau Contractor Team includes experts in land use planning (Adlophson and Associates), public administration (Ross & Associates), and legal frameworks (Marten Brown). These experts will assist in identifying potential institutional approaches and analyzing their implications.

Rick Roeder (Ecology)–Agency Representative

Provide direction and input on draft institutional frameworks deliverables and activities, including early draft of work products and coordination with Task Force meetings. Coordinate with and provide information to other agency staff on task 5 work products and activities. Agency representative may make presentations and assist with institutional frameworks discussions at Task Force meetings (e.g., may substitute for places below where the Workplan indicates the contractor would make presentations or lead discussions).

Steve Theile (Attorneys General)–Legal Counsel

As needed, provide analysis and counsel on legal issues associated with institutional frameworks. Anticipated areas of legal expertise include: MTCA, real estate disclosure, growth management, planning and zoning requirements, and takings.

Ted Gage (Community Development)–Technical Resource

Serve as technical resource for institutional frameworks task area, especially with respect to planning and zoning approaches and the Growth Management Act.

Other Agency Staff

Participate in conference calls with Task Manager and Agency Representative and provide input on work products.

Area-wide Soil Contamination Task Force

Because there is no dedicated Work Group for the institutional frameworks task area, the Task Force will provide direct input on institutional frameworks task area deliverables and analyses. The Task Force will provide direction primarily through participation in Task Force meetings and secondarily through review of key written materials. A subset of individual Task Force members may also be called on to provide additional input, based on specific areas of expertise, to the identification and analysis of institutional alternatives.

Activities and Deliverables Schedule

Start Up

- January 2002. The contractor will develop a work plan, begin a literature review of approaches in other states, and assist with the development of the information survey interview questions and contact list (Subtask 5.2).
- Task Force Meeting #1 (February 7, 2002). The Task Force will review the work plan and confirm objectives for the institutional frameworks task area. The Task Force will also provide input on the direction of the review of approaches in other states.

Information Survey and Review of Approaches in Other States (Subtask 5.2)

- February through April 2002. The contractor will conduct a survey, through interviews and literature review, to learn how other states are responding to similar types of contamination. This survey will feed into a broader technical memorandum that covers the work of several task areas. This work will identify non-traditional measures to feed into the analysis of the Protective Measures Work Group II.
- Task Force Meeting #2 (April 3, 2002). The Task Force will review the interim findings of approaches in other states.
- Task Force Meeting #3 (May 2, 2002). The contractor will present state survey results.

Institutional Frameworks Case Studies (Subtask 5.3)

- March through May 2002. The contractor will prepare 3-5 case studies that document the processes and issues associated with addressing area-wide contamination problems in Washington and other parts of the United States. The

case studies will be selected based on criteria developed by the Task Force at meeting #2. The case studies will include both retrospective situations (specific cleanup or land use development projects that have been implemented) and prospective situations (specific cleanup or land use development projects that might be implemented in areas containing widespread low-to-moderate soil contamination). The case studies will include a description of the situation, what was done (or is planned), lessons learned, and key parameters for success.

- Task Force Meeting #2 (April 3, 2002). The Task Force will identify criteria for selecting 3-5 case studies (e.g., physical similarities to WA state contamination or relevance of approaches used).
- Task Force Meeting #3 (May 2, 2002). The contractor will present the selected case studies based on criteria identified by the Task Force.
- Task Force Meeting #4 (June 13, 2002). The contractor will present final case studies.

Identification of Institutional Alternatives (Subtask 5.4)

- April through June 2002. In coordination with the alternatives examined by the Protective Measures Work Group, the contractor will identify and characterize a range of institutional alternatives/processes that might be used to address area-wide soil contamination. The combination of the results of subtask 5.4 and the products of the Protective Measures Work Group II will likely result in a matrix of information for the Task Force. This matrix will likely be built around a range of remedial options (e.g., education, restricted access, containment, etc.) based on condition types (e.g., populations, soil type, contamination levels, etc.) and their associated costs, as identified by Work Group II and a range of institutions (e.g., private entities, local agencies, state government, new institutions) that could be involved in implementing the remedial options.
- Task Force Meeting #4 (June 13, 2002). The Task Force will discuss the emerging remedial options and institutional alternatives.
- Task Force Meeting #5 (July 25, 2002). The contractors will present the range of remediation options and institutional alternatives. The Task Force will begin discussing the legal, funding, and institutional implications of the model remedies and institutional alternatives. For example, if Work Group II proposes maintaining vegetative cover at certain types of sites and estimates associated costs of X dollars, the Task Force will consider the following types of implications: How might funding be provided and by whom? How would existing or new institutions be involved? What legal authorities would cover such action? Do they exist? Identification of these key implications will drive the legal, funding, and institutional analysis to follow. This discussion may flow into Task Force Meeting #6.

Legal Analysis Issue Paper (Subtask 5.6)

- Based on the legal issues and implications identified by the Task Force, the Office of the Attorney General and Ecology will conduct an analysis of the identified institutional alternatives. The legal analysis results and conclusions will be provided to the contractor and the Task Force as a draft and final issue paper. (*Note: No contractor funding to support this subtask.*)

Funding and Institutional Analysis Issue Papers (Subtasks 5.7 and 5.8)

- July through October 2002. The contractor will prepare an evaluation of each of the identified institutional alternatives in terms of funding needs; funding mechanisms (e.g., permit fees, public funding, etc) and funding sources (e.g., State Toxics Control Act, etc.) for meeting the financial needs associated with each institutional alternative; and the feasibility of implementing the funding alternatives. The contractor will also examine the agencies/organizations and processes to determine the operational feasibility of each of the identified institutional alternatives. This will include describing the institutional processes involved with implementing each alternative; identifying changes to existing processes that needed to provide adequate assistance/oversight/approval; and identifying barriers to such changes and the feasibility of overcoming those institutional barriers. The agency staff, technical resources, and select members of the Task Force will provide additional expertise and input into the analysis of the legal, funding, and institutional implications of the remedial alternatives.
- Task Force Meeting #7 (Fall 2002). The contractor will present the legal, funding, and institutional analysis. The Task Force will begin discussions of feasible options in light of the characterization of the contamination in Washington State (based on work products of Work Group I) and the results of the analysis. This discussion will likely flow into subsequent Task Force meetings. The Task Force will identify any further analysis or information needed on the institutional alternatives.
- Task Force Meeting #8 and beyond. The contractor will present additional information/analysis on institutional alternatives as requested/directed by the Task Force.